THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.26770 of 2005

Dated: 11-07-2006

Between:

M.K. Sardhi Chakravarthi.

..... PETITIONER

AND

The Joint Sub-Registrar-I,Chittoor, and
two others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.26770 of 2005

ORDER:

Land admeasuring 55 ankanams (equivalent to 216 sq. yards) in survey No.242/B3 was purchased by the petitioner under registered sale deed dated 22-03-2004 from one D. P. Jaya Kumar who had purchased the same from one Suchita Devi. After purchasing the property, the petitioner sold an extent of 20 ankanams (80.86 sq. yards) to one Nagichetti Srinivasulu under registered sale deed dated 05-06-2004 and another extent of 22.22 sq. yards under sale deed dated 17-11-2005 to one Amudala Nirmala. When document dated 17-11-2005 was presented to the first respondent, he refused to register the same. The first respondent recorded reasons on 23-11-2005 under Section 17 of the Indian Registration Act, 1908 (the Registration Act, for brevity) for such refusal and communicated a copy of the reasons to the petitioner. The reasons for refusal of registration of document dated 17-11-2005 executed by the petitioner in favour of Amudala Nirmala are as under.

> Reasons for refusal
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> This is a Sale Deed for Rs.57,500/- executed on 1711-2005 by Sri M.K. Saradhi Chakravarthy. The property offected in this document is 22.22 sq. yards in S.No.242/B3 (New) 242/B (old) of Tirupati Revenue Village Tirupati Municipality 19th Ward Bairagipatteda Residential Area. On request of the Administrative Officer Sri Swamy Hathiramji Mutt Tirupati. The Commissioner Inspector General Registration and Stamps Hyderabad issued instructions to the District Registrar Sri Balaji Registration District Tirupati not to Register the lands pertaining to the Hathiramji Mutt. Wide Inspector General Memo No.G1/12778/03 Dt 26-04-2004 and the same was communicated by the District Registrar in his Memo G/763/04 Dt 10-05-2004. And instructed not to Register the said Mutt lands. The property in the present pending document covered by the said Mutt lands.
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> Therefore the Registration of the Document is refused as per the instructions of the Commissioner and Inspector General Registration and District Registrar Sri Balaji registration District, Tirupati.

Feeling aggrieved by such refusal, the present writ petition is filed.

Learned counsel for the petitioner submits that when the petitioner purchased the property under registered sale deed dated 22-03-2004 and sold the property to Nagichetti Srinivasulu under registered sale deed dated 05-06-2004, the respondents did not raise any objections and registered the documents. When the document dated 17-11-2005 is

presented, the first respondent relied on Memo dated 26-04-2004 issued by the Commissioner & Inspector General of Registration and Stamps, and therefore, the refusal is illegal. He points out that the Memo dated 26-04-2004 was very much in existence when the sale deed dated 05-04-2004 executed by the petitioner in favour of Nagichetti Srinivasulu was registered.

Learned Assistant Government Pleader for Revenue (General) submits that as the second respondent herein issued instructions to the first respondent not to register documents pertaining to the property of Sri Swamy Hathiramji Mutt, Tirupati, the registration was refused. The learned Government Pleader does not, however, dispute that Section 22 A of the Indian Registration Act,1908 (the Registration Act, for brevity) has been declared as *ultra vires* by a Division Bench of this Court. This itself would show that the Memo dated 26-04-2004 which was presumably based on power of Government under Section 22 A of the Registration Act can no more be enforced.

In a recent unreported judgment of the Division Bench of this Court in W.P.Nos.14099 of 2003 and batch, dated 07-12-2005, following the judgment of the Supreme Court in **State of Rajasthan and others v. Basant Nahata**[1], Section 22 A of the registration Act has been invalidated. Therefore, notwithstanding the Memo dated 26-04-2004 issued by the Commissioner & Inspector General of Registration and Stamps, the first respondent is bound to consider the document presented by the petitioner and register the same unless and until there are other reasons for such refusal.

The writ petition, subject to above observations, is accordingly allowed. No costs.

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V.V.S.RAO, J

11th July, 2006
ghn

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[1] 2005 AIR SCW 4456